99TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
99-69

SOCIAL SECURITY MINOR AND TECHNICAL CHANGES ACT OF 1985

MAY 7, 1985.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 2005]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means to whom was referred the bill (H.R. 2005) to amend title II of the Social Security Act and related provisions of law to make minor improvements and necessary technical changes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 2, after the item relating to section 12 in the table of contents, insert the following:

> SEC. 13. Preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula.

Page 2, in the last line of the table of contents, strike out "13" and insert in lieu thereof "14".

Page 7, line 14, strike out "reports" and insert in lieu thereof "a report".

Page 7, lines 17 and 21, strike out "reports" and insert in lieu thereof "report".

Page 9, strike out line 5 and the matter immediately following line 5, and insert in lieu thereof the following:

> (after and below subparagraph (B)) the following new sentence:

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"For treatment of certain citizens of possessions of the United States, see section 932(c)."

Page 11, line 2, immediately before "(d)(6)(B),", insert "(d)(6)(A)(ii),".

Page 11, strike out "shall apply" in line 5 and all that follows down through line 7, and insert in lieu thereof the following:

are effective December 1, 1980, and shall apply with respect to any individual who is under a disability (as defined in section 223(d) of the Social Security Act) on or after that date.

Page 13, line 11, strike out "233(d)" and insert in lieu thereof "223(d)".

Page 15, after line 6, insert the following new section:

SEC. 13. PRESERVATION OF BENEFIT STATUS FOR DISABLED WIDOWS AND WIDOWERS WHO LOST SSI BENEFITS BECAUSE OF 1983 CHANGES IN ACTUARIAL REDUCTION FORMULA.

(a) IN GENERAL.—Section 1634 of the Social Security Act is amended—

(1) by inserting "(a)" after "Sec. 1634.", and

(2) by adding at the end the following new subsesction:

"(b)(l) An eligible disabled widow or widower (described in paragraph (2)) who is entitled to a widow's or widower's insurance benefit based on a disability for any month under section 202(e) or (f) but is not eligible for benefits under this title in that month and who applies for the protection of this subsection under paragraph (2), shall be deemed for purposes of title XIX to be an individual with respect to whom benefits under this title are paid in that month if he or she—

"(A) has ben continuously entitled to such widow's or widower's insurance benefits from the first month for which the increase described in paragraph (2)(C) was reflected in such benefits through the month involved, and

"(B) would be eligible for benefits under this title in the month involved if the amount of the increase described in paragraph (2)(C) in his or her widow's or widower's insurance benefits, and any subsequent cost-of-living adjustment in such benefits under section 215(i), were disregarded.

"(2) For purposes of paragraph (1), the term 'eligible disabled widow or widower' means an individual who—

"(A) was entitled to a monthly insurance benefit under title II for December 1983,

"(B) was entitled to a widow's or widower's insurance benefit based on a disability under section 202(e) or (f) for January 1984 and with respect to whom a benefit under this title was paid in that month, and

"(C) because of the increase in the amount of his or her widow's or widower's insurance benefits which resulted from the amendments made by section 134 of

the Social Security Amendments of 1983 (Public Law 98-21) (eliminating the additional reduction factor for disabled widows and widowers under age 60), was ineligible for benefits under this title in the first month in which such increase was paid to him or her (and in which a retroactive payment of such increase for prior months was not made).

"(3) This subsection shall only apply to an individual who files a written application for protection under this subsection, in such manner and form as the Secretary may prescribe, during the 12-month period beginning with the third month that begins after the date of the enactment of this subsection.

"(4) For purposes of this subsection, the term 'benefits under this title' includes payments of the type described in section 1616(a) or of the type described in section 212(a) of Public Law 93-66.".

(b) IDENTIFICATION OF BENEFICIARIES.—(1) As soon as possible after the date of the enactment of this Act, the Secretary of Health and Human Services shall provide each State with the names of all individuals receiving widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act based on a disability who might qualify for medical assistance under the plan of that State approved under title XIX of such Act by reason of the application of section 1634(b) of the Social Security Act.

(2) Each State shall—

(A) using the information so provided and any other information it may have, promptly notify all individuals who may qualify for medical assistance under its plan by reason of such section 1634(b) of their right to make application for such assistance,

(B) solicit their applications for such assistance, and

(C) make the necessary determinations of such individuals' eligibility for such assistance under such section and under such title XIX.

(c) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall not have the effect of deeming an individual eligible for medical assistance for any month which begins less than two months after the date of the enactment of this Act.

Page 15, line 7, strike out "13" and insert in lieu thereof "14".

I. PURPOSE AND SCOPE

The Committee's bill amends Title II of the Social Security Act to provide for needed minor improvements and technical corrections to various sections of the Act. While some provisions would result in minor extensions of benefit protection, most sections correct unintended results of recent amendments to the Social Security Act, primarily the 1980 Disability Amendments, and the Social Security Amendments of 1983.

The major provisions of the bill extend the waiver authority under which the Social Security Administration may conduct vocational rehabilitation demonstration projects; substitute a special disability Advisory Council for the general quadrennial advisory council required by law to be appointed in 1985; extend the current law treatment of adopted grandchildren to adopted great-grandchildren; provide relief for disabled widows who were inadvertently made ineligible for SSI and medicaid benefits by an increase in their social security benefits in the 1983 Social Security Amendments; and correct a technical error in the Social Security Amendments of 1983 which resulted in discriminatory tax treatment of benefits received by citizens of American Samoa. The bill also contains several minor clerical and technical changes to clarify Congressional intent in other areas, including reentitlement to benefits of childhood disability beneficiaries, the disability family maximum benefit comptuation for working auxiliary beneficiaries, and deeming January checks paid in December because of a holiday to be paid in January for purposes of taxation of benefits and reserve fund calculations.

II. Explanation of Provisions

1. DEMONSTRATION PROJECTS INVOLVING THE DISABILITY INSURANCE PROGRAM

Under the Social Security Disability Amendments of 1980, the Secretary was granted authority to waive provisions of the Social Security Act in order to conduct demonstration projects designed to encourage disability beneficiaries to return to work. While no specific termination of the waiver authority was included in the law, the Secretary was required to report to the Congress after 5 years on the results of these demonstration projects. The General Counsel of HHS has interpreted the reporting date to mean that the waiver authority expires as of that date.

The Committee believes it is of paramount importance to continue to explore ways to encourage and assist the rehabilitation of disability beneficiaries. Thus, the Committee's bill extends the waiver authority provided in the 1980 Amendments for five additional years, with new requirements to report to Congress each year on the progress of the demonstration projects.

The Committee assumes SSA will promptly proceed to implement the plan for conducting rehabilitation demonstration projects and experiments outlined in the Secretary's letter of November 30, 1984, to Chairman Rostenkowski. Of particular importance, we believe, is the need to take account of the vocational rehabilitation implications of continuing technological and treatment developments in the management of patient care for long-term chronically ill individuals, such as end stage renal disease patients, and to develop demonstration projects designed to encourage and assist both the return to functionality and the vocational rehabilitation of such patients. ESRD patients, for example, are an illustration of a category of disabled beneficiaries many of whom might be substantially helped to return to work if more significant efforts were undertaken to provide rehabilitation services. The Committee be-

lieves, therefore, that this is one area where a rehabilitation demonstration project should be promptly undertaken in cooperation with appropriate professional organizations involved in the care and treatment of ESRD patients.

2. DISABILITY ADVISORY COUNCIL

The Social Security Act requires an Advisory Council on Social Security to be appointed every four years, at the beginning of each Presidential term which is to report on the program by January 1 of the second year after appointment. The next Council is thus scheduled to be appointed in 1985, and to report by January 1, 1987. Since 1976, there have been four general advisory panels on social security and Medicare, culminating in the 1983 Social Security Amendments.

The Committee believes that the primary need at the present time is for a thorough review of the disability program. Consequently, the bill provides for a special *ad hoc* Disability Advisory Council in lieu of the general quadrennial council required by law, to be appointed by the Secretary, to study and make recommendations on the medical and vocational aspects of disability under Titles II and XVI, focusing on the evaluation of eligibility for disability and the effectiveness of vocational rehabilitation programs for social security and SSI beneficiaries.

3. TAXATION OF SOCIAL SECURITY BENEFITS RECEIVED BY CITIZENS OF U.S. POSSESSIONS

For the purpose of the taxation of social security benefits citizens of American Samoa are treated as non-resident aliens and are subject to withholding of taxes from their social security benefits at a 15 percent rate. Citizens of other U.S. territories are exempt from the withholding requirement. Social security benefits received by citizens of Guam and the Virgin Islands are subject to taxation under the mirror image tax code of those territories under rules identical to those applicable in the U.S. The different treatment of Samoa is the result of a technical drafting error in the 1983 Social Security Amendments which provided for taxation of benefits.

The bill generally eliminates U.S. tax on social security payments to citizens of a U.S. possession who are not otherwise U.S. citizens and who are not U.S. residents, that is, to certain citizens of American Samoa. This tax exemption will not apply if the possession imposes less tax on benefits than the United States would impose at that time if a U.S. citizen or resident received them. For example, if (while U.S. law does not change), Samoa changes its law so as not to tax social security benefits), or if it raises the $25,000/$32,000 floor, the 15 percent U.S. tax will again apply.

4. APPLICATION OF DEPENDENCY TEST TO ADOPTED GREAT-GRANDCHILDREN FOR PURPOSES OF CHILD'S INSURANCE BENEFITS

Under present law, social security beneficiaries may adopt a grandchild (under the age of 18) and entitle that child to benefits if the child lives with the grandparent for at least one year before applying for children's benefits, and was receiving at least one-half of his support from the beneficiary. The bill would extend this provision to the great-grandchildren of beneficiaries.

5. ELIMINATION OF REQUIREMENT FOR PUBLICATION OF PRE-1979 BENEFIT TABLE

The law now requires the Secretary to publish in the Federal Register the pre-1977 Amendment table of benefit amounts as increased by each general benefit increase. This table applies only to people eligible for benefits in 1978 or earlier, a closed group which will become smaller every year. The benefit tables are now several pages long and will grow in length each year with each increase in the contribution and benefit base; in addition, publishing revisions in the increasingly lengthy tables (now containing over 4,200 numbers) will become more and more cumbersome every year. Consequently, the bill would eliminate the requirement that the revised tables be published in the Federal Register, since they are no longer of general interest. An announcement would be made at each benefit increase that a pre-1977 amendment benefit table can be obtained from the office of the Actuary, Social Security Administration.

6. FAIL-SAFE FORMULA CLARIFICATION

Under the fail-safe provision enacted in the 1983 Amendments, the Board of Trustees is required to notify the Congress whenever it determines that the balance in any of the trust funds at the beginning of any calendar year may become less than 20 percent of that year's expenditures. A similar balance measurement is required for the stabilizer provision for determining if benefit increases are to be based on the lower of increases in prices and wages. However, the stabilizer provision explicitly states that the measure of reserves includes first of the month credited balances, while the fail-safe provision is silent. The bill clarifies the Congressional intent that the same measure of reserves, i.e. including the taxes credited to the social security trust funds on the first day of each month, be used for both the stabilizer and the fail-safe.

7. EXTENSION OF SUBSEQUENT 15-MONTH REENTITLED PERIOD TO REENTITLED CHILDHOOD DISABILITY BENEFICIARIES

All disabled individuals who have completed a 9-month trial work period and who still have a disabling impairment, may be automatically reinstated to active benefit status during the next 15 months for any month in which their earnings fall below the substantial gainful activity level (currently $300/mo.). In general this provision is available both in cases of initial entitlements and subsequent reentitlements to benefits based on disability. However, a person entitled to benefits as a disabled adult child (generally a person disabled since childhood and entitled to benefits on his parent's earnings record) who has used this provision once cannot subsequently be covered by it again. The Committee's bill, therefore, extends the subsequent 15-month reentitlement periods to reentitled childhood disability beneficiaries.

8. CHARGING OF WORK DEDUCTIONS AGAINST AUXILIARY BENEFITS IN DISABILITY CASES

In general, when a person receiving auxiliary benefits (e.g. spouse or children) has earnings which exceed the annual exempt amount under the earnings test, deductions are imposed against the benefit amount for the auxiliary that would be payable after all benefits in the family have been reduced to fit under the maximum family benefit limit. However, the deduction is actually made in the working person's benefit before the total family benefit is reduced under the family maximum so that the excess from the working person's benefit is redistributed to the non-working beneficiaries in the family. However, disability beneficiaries are subject to a special, lower family maximum benefit, enacted in 1980. Because of a technical drafting error in this provision, the reduction for working beneficiaries is imposed against the regular family maximum formula that would be applicable if the working beneficiary were in the family of a retired rather than a disabled beneficiary. This produces anomalous results, allowing the working beneficiary to receive higher annual benefits in some cases and the non-working beneficiaries in the family to receive lower annual benefits than would be paid if the disability family maximum were applied.

To eliminate these anomalies, the bill provides, in the case of a working auxiliary receiving benefits on the record of a disabled worker, for the charging of work deductions against the disability family maximum limit.

9. PERFECTING AMENDMENTS TO DISABILITY OFFSET PROVISION

The 1981 Budget Reconciliation Act expanded the social security disability offset (reduction in social security disability benefits because of receipt of other types of benefits), previously applicable only to workers' compensation payments, to include most governmental disability benefits paid to individuals. However, the wording of the law as enacted has created two anomalies: first, it can be interpreted as excluding from the offset certain workers' compensation benefits already subject to the offset under prior law; and second, two of the exclusions from the offset inadvertently treat people with Federal service covered under social security more favorably than people with State or local government service covered under social security.

The bill amends these provisions of present law to ensure that all disability benefits paid under a Federal or State workers' compensation law or plan would continue to be subject to the disability offset, and to clarify that both Federal and State or local workers must have substantially all their service covered by social security to be excluded from the disability offset.

10. STATE COVERAGE AGREEMENTS

Social security coverage for State and local employees is provided through a voluntary agreement between the State and the Secretary of Health and Human Services. The effective date of an agreement generally is based on the date the agreement is mailed or delivered to the Secretary. However, in two types of agreement modi-

fications (coverage of workers paid on a fee basis, and for the period of retroactive coverage that can be elected for newly covered employees) the law provides that the agreement takes effect on the date the agreement has been signed by both parties. This can cause complications and loss of coverage for employees when an agreement is sent to the Secretary at the end of a calendar year but not signed until the beginning of the following calendar year. The Committee's bill, therefore, would make all agreements and modifications of agreements effective on the date the agreement is mailed or delivered by other means to the Secretary.

11. EFFECT OF EARLY DELIVERY OF BENEFITS

Under current law, when the normal delivery date for Social Security benefits, the 3rd day of the month, falls on a Saturday, Sunday or legal holiday, checks must be delivered on the nearest preceding banking day. In some circumstances, this results in the checks being delivered in the previous month—and, as in 1988 when January 3 falls on a Sunday, may result in 13 months of benefits being delivered in one year. Because the interfund borrowing, stabilizer and fail-safe provisions require calculation of trust fund balances at the end of each calendar year, such an early payment of benefits in December instead of January, will result in an artificially low picture of trust fund reserves and could, in an extreme situation, cause the triggering of the stabilizer provision when it otherwise would not have been. In addition, an early payment of benefits may exaggerate beneficiaries tax liability for benefits, since the Internal Revenue Code generally makes benefits subject to taxation when they are received. The next year in which January 3 falls on a Sunday, thus triggering this problem, is 1988.

The Committee's bill would eliminate these problems by providing that, for purposes of asset-expenditure ratio calculations and taxation of benefits, Social Security benefits delivered prior to their scheduled delivery date would be deemed to have been paid on the regular delivery date (i.e. the 3rd of the month following the month for which payment is due).

12. PRESERVATION OF BENEFIT STATUS FOR DISABLED WIDOWS AND WIDOWERS

Under the Social Security Amendments of 1983, benefits for disabled widows and widowers age 50 to 59 were raised to 71.5 percent of the PIA, the amount to which widows and widowers are entitled at age 60. This increase was effective January 1984.

An unintended consequence of this benefit increase was the loss of medicaid coverage by some of those beneficiaries who lost eligibility for the Supplemental Security Income payments that they had been receiving prior to the benefit increase. In the 20 States which do not offer medicaid coverage to the "medically needy," the loss of SSI eligibility means the loss of medicaid coverage.

The Committee's bill provides a mechanism for the reestablishment of medicaid eligibility by those low-income disabled widows and widowers who lost SSI eligibility because of the January 1984 disability benefit increase. Qualified individuals who file an application for protection with the State within a year after the third

month after enactment would be deemed to be receiving SSI benefits for purposes of medicaid eligibility. These individuals are therefore automatically eligible for medicaid coverage except in those States that apply more restrictive eligibility criteria to SSI recipients.

The bill directs the Secretary to provide each State with information identifying the disabled widows or widowers in that State who are receiving disability benefits who might qualify for medicaid. The Committee expects this information to be transmitted as expeditiously as possible after the date of enactment. The bill further directs each State to promptly inform the individual so identified by the Secretary of their right to apply for medicaid coverage under this provision, to solicit their applications, and to promptly determine their eligibility for medicaid under this provision.

In order to qualify for this "deemed" SSI status, an individual must: (1) be entitled to a widow's or widower's disability benefit; (2) have been continuously entitled for such benefits since January, 1984; (3) have been entitled to a Title II monthly insurance benefit in December 1983; (4) have been entitled to and received a widow's or widower's disability benefit in January 1984; and (5) have become ineligible for SSI or State supplemental benefits at the close of January 1984, solely because of the increase in widow's or widower's benefits resulting from the 1983 amendments.

Under the Committee's bill, an individual could not be deemed eligible for medicaid before the month beginning two months or more after enactment. The Committee bill does not amend the medicaid statute; the Committee expects that current law and practice regarding medicaid eligibility procedures and benefits coverage would apply to disabled widows and widowers affected by the bill. Under current medicaid law, benefits are retroactive to the third month before the month in which an individual applies for coverage. The Committee bill does not change this provision of the medicaid statute.

III. Cost Estimate, Vote of the Committee and Other Matters To Be Discussed Under House Rules

In compliance with clause (3)( )(2)(B) of Rule XI of the Rules of the House of Representatives, the Committee states that the bill was approved by a voice vote.

In compliance with clause (2)( )(3)(A) of Rule XI, the Committee reports that the need for this legislation has been confirmed by oversight hearings conducted by the Committee's Subcommittee on Social Security.

In compliance with clause (2)( )(3)(D) of Rule XI, the Committee states that no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause (2)( )(4)(B) of Rule XI, the Committee states the bill has no inflationary impact on the economy.

In compliance with clause (2)( )(3)(B) of Rule XI, the Committee states that discussion of budgetary authority is contained in the report of the Congressional Budget Office. The Committee further states that the Congressional Budget Office, having examined the

bill as reported by the Committee, has submitted the following report.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 7, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 2005, the Social Security Minor and Technical Changes Act of 1985, as ordered reported by the House Committee on Ways and Means on May 2, 1985.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2005.

2. Bill title: Social Security Minor and Technical Changes Act of 1985.

3. Bill status: As ordered reported by the Committee on Ways and Means on May 2, 1985.

4. Bill purpose: To amend Title II of the Social Security Act and related provisions of law to make minor improvements and necessary technical changes.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

Budget function	1985	1986	1987	1988	1989	1990
Function 550:						
Budget authority	(1)	1	1	1	1	1
Outlays	(1)	1	1	1	1	1
Function 650:						
Budget authority	(1)	−1	−2	−2	−3	−3
Outlays	(1)	3	4	4	3	3
Total costs:						
Budget authority	(1)	0	−1	−1	−2	−2
Outlays	(1)	4	5	5	4	4

[1] Less than $500,000.

The costs of this bill fall into budget functions 550 and 650.

Basis for estimates

This bill has 12 substantive provisions for which the Congressional Budget Office (CBO) has estimated costs. Only two of the provisions (Sections 2 and 10) would have an annual outlay effect of $1 million or more during the period 1986–1990. (See Table 1 for the estimates for each provision.) In addition, Sections 4 and 12 have implications for both unified budget receipts and Old Age Survivors and Disability Insurance (OASDI) trust fund incomes.

TABLE 1.—ESTIMATES OF OUTLAY AND REVENUE EFFECTS OF H.R. 2005, AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[By fiscal year, in millions of dollars]

	1985	1986	1987	1988	1989	1990
Sections affecting outlays:						
Demonstration projects	*	3	5	5	5	5
Disability Advisory Council	*	*	*	0	0	0
Dependency test for adopted great-grandchildren	*	*	*	*	*	*
Cease publication of pre-1979 benefit tables	*	*	*	*	*	*
Fail-safe formula	0	0	0	0	0	0
Extension of 15-month reentitlement period for childhood disability subsequently entitlement	*	*	*	*	*	*
Charging work deductions against auxiliary benefits in disability cases	*	*	*	*	*	*
Disability offset provision	*	*	−1	−1	−2	−2
State coverage agreement	*	*	*	*	*	*
Medicaid for certain disabled widows and widowers	*	1	1	1	1	1
Total outlays	*	4	5	5	4	4
Sections affecting revenues:						
Taxation of benefits in certain possessions	*	−1	−1	−1	−1	−1
Early delivery of benefit checks	0	0	0	0	0	0
Total revenues	*	−1	−1	−1	−1	−1
Total change on unified budget deficit	*	5	6	6	5	5

Source: Congressional Budget Office. Estimates assume enactment by June 30, 1985.

Notes.—* indicates impact of less than $500,000.

Demonstration projects (section 2)

This provision in H.R. 2005 extends the deadlines for the reports that the Secretary of the Department of Health and Human Services (HHS) is required to submit to the Congress, on the various experiments and demonstration projects authorized under the Social Security Disability Amendments of 1980. By specifying new reporting deadlines and by specificially extending waiver authority for the demonistations, this section allows HHS to allocate funds to these projects over the next five fiscal years.

The costs of the demonstration projects are difficult to estimate as they would depend on the exact nature of the projects undertaken. The Social Security Administration (SSA) has indicated it anticipates the costs of the projects, when fully implemented, would total no more than $5 million in any given year. The costs would be lower in 1986 because it would take time to design the specific projects and to award any contracts for these projects.

Disability advisory council (section 3)

Under this provision, a special advisory council on Social Security would be appointed to focus entirely on the Disability Insurance (DI) program. This council would in essence substitute for the quadrennial advisory council that is currently required. The bill specifies a number of specific aspects of the DI program on which the council should concentrate.

The costs of this provision are estimated to be negliglible. The current CBO baseline of OASDI outlays incorporates spending for a

quadrennial advisory council into its estimate of overall administrative costs for the trust funds. Although the specific requirements of this advisory council might cause its expenses to be slightly higher than are assumed in the CBO baseline, the added costs are unlikely to amount to more than $0.5 million in any year.

Taxation of certain Social Security benefits in U.S. possessions (section 4)

This section addressed the income tax treatment of Social Security benefits in certain possessions of the United States, principally American Samoa. Under the provision, Social Security benefits in these possessions would be treated similarly to those received by U.S. residents. The income tax withholding that now occurs for Social Security benefits paid to non-resident aliens—equal to 30 percent of one-half of benefits—would not be applied in these possessions.

An estimated $5 million in benefit payments will be made to residents of American Samoa in fiscal year 1985, of which a maximum of $2.5 million would be subject to tax. As a result, estimated withholding on these benefits is about $750,000 annually.

Assuming that the government of American Samoa will enact conforming legislation, enactment of this provision would reduce unified budget revenues and OASDI trust fund receipts by about $1 million each year after 1985.

Dependency test for adopted great-grandchildren (section 5)

This provision would apply the same test for dependency for adopted great-grandchildren as currently exists for adopted grandchildren.

The cost of this section is estimated to be neglible, because few new beneficiaries are assumed to result from this extension of eligibility.

Cease publication of revisions in the pre-1979 benefit tables (section 6)

This section would eliminate the requirement that the Secretary of HHS publish the revisions of the benefit tables used in the determination of benefits for those not receiving benefits based on the Average Indexed Monthly Earnings. This provision would end only the publication of the revised tables, not the revision itself.

The savings from this provision are negligible.

Fail-safe formula clarification (section 7)

This provision clarifies the exact specifications for determining the "balance ratio" for the purposes of the fail-safe provision. If this ratio is expected to fall below 20 percent for any calendar year, then the Board of Trustees would be required to submit recommendations to address the issue of low balances.

This provision has no effect on outlays.

Extension of 15-month reentitlement period for childhood disability beneficiaries subsequently entitled (section 8)

This provision modifies the reentitlement period of benefits payable on the basis of a childhood disability to reflect the trial work period.

The costs of this provision are estimated to be negligible.

Charging of work deductions against auxiliary benefits in disability cases (section 9)

This section would require that any reductions in benefits due to the earnings of auxiliary beneficiaries would, in DI cases, be imposed after the application of the limit on maximum family benefits.

The estimated costs of this provision are negligible.

Disability offset provison (section 10)

This section modifies the DI benefit offset for workers' compensation benefits and for public disability payments based on employment not covered under Social Security. The section has an impact on benefit payments because of the change in the treatment of benefits from plans primarily directed toward federal workers. The existing language would be changed from "benfits . . . based on service all or part of which" to "benefits . . . based on service all or substantially all of which." This has the effect of including under the offset provison more disability benefit payments received by federal workers.

Based on information provided by the Office of the Actuary of Social Security Administration, the estimated outlay savings resulting from this section are negligible in fiscal years 1985 and 1986, and reach $2 million in 1989.

State coverage agreements (section 11)

This provision deals with the determination of the effective dates of agreements between states and the Secretary of HHS on the coverage of state and local government employees.

The estimated cost of this provision is negligible.

Early delivery of benefit checks (section 12)

This provision deals with the situation when, under current law, the December benefit payments must be sent out of December 31, rather than in January as is normally the case. This occurs because January 3, the usual date for payment of the checks, falls on a Sunday, and the last business day before January 3 is December 31. For example, in 1988, this timing causes 1987 to be a year in which 13 mailings of benefit checks are made, and 1988 to be a year with only 11 checks. This could potentially have an impact on the stabilizer provisions for determining benefit increases and would have an impact on receipts from the taxation of benefits. This change, if enacted, would treat the December 31 check as if it had been paid in January for the purposes of: 1) the taxation of benefits; 2) repayment of interfund borrowing loans; 3) the determination of whether benefit increases would be based on the lower of wages or prices; and 4) the fail-safe provision.

This provision has no impact on either outlays or revenues relative to the CBO baseline. Although this change would alter the timing of income tax receipts, the CBO baseline estimates currently reflect the income tax treatment that is specified under this section.

Deeming of medicaid to certain disabled widows and widowers (section 13)

Section 13 would deem Medicaid benefits to disabled widows and widowers who lost eligibility for SSI and Medicaid because of the 1983 increase in their Social Security benefits. Only such persons eligible for these benefits in December 1983 would be affected. The Social Security Administration estimates that up to 5,000 persons in 1983 were affected by the Social Security benefit change. Some would have died and others would already be receiving Medicaid under "medically needy" programs, leaving an estimated 3,000 persons who would now receive Medicaid. Because many would also receive Medicare, this average annual Medicaid costs to the federal government are estimated to be only $400.

The cost of this provision in 1985 would be negligible and would rise to about $1 million annually for the 1986-1990 period.

6. Estimated costs to state and local governments: The Congressional Budget Office has determined that this bill would increase expenditures of state and local governments by $1 million a year for the addition Medicaid coverage provided to certain disabled widows and widowers.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Paul Cullinan and Jan Peskin.

10. Estimate approved by: C.G. Nuckols (James L. Blum, Assistant Director for Budget Analysis).

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Social Security Disability Amendments of 1980

AN ACT To amend the Social Security Act to provide better work incentives and improved accountability in the disability programs, and for other purposes.

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TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

* * * * * * *

AUTHORITY FOR DEMONSTRATION PROJECTS

Sec. 505. (a)(1) * * *

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(3) In the case of any experiment or demonstration project under paragraph (1) *which is initiated before June 10, 1990,* the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

[(4) The Secretary shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this subsection together with any related data and materials which he may consider appropriate.]

(4) On or before June 9, 1985, and on or before June 9 in each of the years 1986, 1987, 1988, and 1989, the Secretary shall submit to the Congress an interim report on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials which the Secretary may consider appropriate.

* * * * * * *

(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out [under this section no later than five years after the date of the enactment of this Act] *under subsection (a) no later than June 9, 1990.*

* * * * * * *

Social Security Act

AN ACT To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

* * * * * * *

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

* * * * * * *

OLD-AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

Old-Age Insurance Benefits

SEC. 202. (a) * * *

* * * * * * *

Child's Insurance Benefits

(d)(1) * * *

* * * * * * *

(6) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceeding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1)(D) has occurred) beginning with the first month thereafter in which he—

(A) * * *

* * * * * * *

(E) If he was under a disability (as so defined), [the third month following the month in which he ceases to be under such disability] *the termination month (as defined in paragraph (1)(G)(i)), subject to section 223(e),* or (if later) the earlier of—

* * * * * * *

(i) the first month during no part of which he is a full-time elementary or secondary school student, or

(ii) the month in which he attains the age of 19.

(8) In the case of—

(A) * * *

* * * * * * *

(D)(i) * * *

(ii) was living with such individual in the United States and receiving at least one-half of his support from such individual (I) if he is an individual referred to in subparagraph (A), for the year immediately before the month in which such individual became entitled to old-age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, the month in which such period of disability began, or (II) if he is an individual referred to in subparagraph (b), for the year immediately before the month in which began the period of disability of such individual which still exists at the time of adoption (or, if such child was adopted by such individual after such individual attained retirement age (as defined in section 216(l)), the period of disability of such individual which existed in the month preceding the month in which he attained retirement age (as defined in section 216(l)), or the month in which such individual became entitled to disability insurance benefits, or (III) if he is an individual referred to in either subparagraph (A) or subparagraph (B) and the child is the grandchild *or great-grandchild* of such individual or his or her spouse for the

year immediately before the month in which such child files his or her application for child's insurance benefits, and

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REDUCTION OF INSURANCE BENEFITS

Maximum Benefits

SEC. 203. (a)(1) * * *

* * * * * * *

(4) In any case in which benefits are reduced purusant to the [preceding] provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 222(b). Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased.

* * * * * * *

(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), [and (5)] *(4), and (5)* but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits [, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced] *shall be reduced* (before the application of section 224) to the smaller of—

(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

(B) 150 percent of such individual's primary insurance amount.

* * * * * * *

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 215. For the purposes of this title—

Primary Insurance Amount

(a) * * *

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Cost-of-Living Increases in Benefits

(i)(1) * * *

* * * * * * *

(4) This subsection as in effect in December 1978, and as amended by sections 111(a)(6), 111(b)(2), and 112 of the Social Security

Amendments of 1983, shall continue to apply to subsections (a) and (d), as then in effect, for purposes of computing the primary insurance amount of an individual to whom subsection (a), as in effect after December 1978, does not apply (including an individual to whom subsection (a) does not apply in any year by reason of paragraph (4)(B) of that subsection (but the application of this subsection in such cases shall be modified by the application of subdivision (I) in the last sentence of paragraph (4) of that subsection)), except that for this purpose, in applying paragraphs (2)(A)(ii), (2)(D)(iv), and (2)(D)(v) of this subsection as in effect in December 1978, the phrase "increased to the next higher multiple of $0.10" shall be deemed to read "decreased to the next lower multiple of $0.10". For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4)(B) applies), [the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a), as in effect in December 1978, as required by paragraph (2)(D) of this subsection as then in effect] *the Secretary shall revise the table of benefits contained in subsection (a), as in effect in December 1978, in accordance with the requirements of paragraph (2)(D) of this subsection as then in effect, except that the requirement in such paragraph (2)(D) that the Secretary publish such revision of the table of benefits in the Federal Register shall not apply.*

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VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

Sec. 218. (a) * * *

* * * * * * *

Effective Date of Agreement

(f)(1) Except as provided in subsection (e)(2), any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification, as the case may be, [is agreed to by the Secretary and the State] *is mailed or delivered by other means to the Secretary.*

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Positions Compensated Solely on a Fee Basis

(u)(1) * * *

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(3) Any modification made under this subsection shall be effective with respect to services performed after the last day of the calendar year in which the modification [is agreed to by the Secretary and the State] *is mailed or delivered by other means to the Secretary.*

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DISABILITY INSURANCE BENEFIT PAYMENTS

Disability Insurance Benefits

SEC. 223. (a) * * *

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(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (d)(6)(A)(ii), (d)(6)(B), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) of this section to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).

* * * * * * *

REDUCTION OF BENEFITS BASED ON DISABILITY

SEC. 224. (a) If for any month prior to the month in which an individual attains the age of 65—

(1) such individual is entitled to benefits under section 223, and

[(2) such individual is entitled for such month to periodic benefits on account of such individual's total or partial disability (whether or not permanent) under—

(A) a workmen's compensation law or plan of the United States or a State, or

(B) any other law or plan of the United States, a State, a political subdivision (as that term is used in section 218(b)(2)), or an instrumentality of two or more States (as that term is used in section 218(k)),

other than benefits payable under title 38, United States Code, benefits payable under a program of assistance which is based on need, benefits based on service all, or substantially all, of which was included under an agreement entered into by a State and the Secretary under section 218, and benefits under a law or plan of the United States based on service all or part of which is employment as defined in section 210,]

(2) such individual is entitled for such month to—

(A) periodic benefits on account of his or her total or partial disability (whether or not permanent) under a workmen's compensation law or plan of the United States or a State, or

(B) periodic benefits on account of his or her total or partial disability (whether or not permanent) under any other law or plan of the United States, a State, a political subdivision (as that term is used in section 218(b)(2)), or an instrumentality of two or more States (as that term is used in

section 218(k)), other than (i) benefits payable under title 38, United States Code, (ii) benefits payable under a program of assistance which is based on need, (iii) benefits based on service all or substantially all of which was included under an agreement entered into by a State and the Secretary under section 218, and (iv) benefits under a law or plan of the United States based on service all or substantially all of which is employment as defined in section 210,

the total of his benefits under section 223 for such month and of any benefits under section 202 for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

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TITLE VII—ADMINISTRATION

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ADVISORY COUNCIL ON SOCIAL SECURITY

SEC. 706. (a) During 1969 (but not before February 1, 1969) and every fourth year thereafter (but not before February 1 of such fourth year), *except as provided in subsection (e),* the Secretary shall appoint an Advisory Council on Social Security for the purpose of reviewing the status of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund in relation to the long-term commitments of the old-age, survivors, and disability insurance program and the programs under parts A and B of title XVIII, and of reviewing the scope of coverage and the adequacy of benefits under, and all other aspects of, these programs, including their impact on the public assistance programs under this Act.

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(e) No Advisory Council on Social Security shall be appointed under subsection (a) in 1985 (or in any subsequent year prior to 1989).

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DELIVERY OF BENEFIT CHECKS

SEC. 708. (a) * * *

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(c) For purposes of computing the "OASDI trust fund ratio" under section 201(l), the "OASDI fund ratio" under section 215(i), and the "balance ratio" under section 709(b), benefits checks delivered before the end of the month for which they are issued by reason of subsection (a) of this section shall be deemed to have been delivered on the regularly designated delivery date.

RECOMMENDATIONS BY BOARD OF TRUSTEES TO REMEDY INADEQUATE BALANCES IN THE SOCIAL SECURITY TRUST FUNDS

SEC. 709. (a) * * *

(b) * * *

[(1) the balance in such Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under section 201(l) or 1817(j), as of the beginning of such year, to]

(1) the balance in such Trust Fund, as of the beginning of such year, including the taxes transferred under section 201(a) on the first day of such year and reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under section 201(l) or 1817(j), to

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TITLE XI—GENERAL PROVISIONS AND PROFESSIONALS STANDARDS REVIEW

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PART A—GENERAL PROVISIONS

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COOPERATIVE RESEARCH OR DEMONSTRATION PROJECTS

SEC. 1110(a) * * *

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(b)(1) * * *

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(3) All reports of the Secretary with respect to projects carried out under this subsection shall be incorporated into the Secretary's annual report to the Congress required by section 704.

TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

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PART B—PROCEDURAL AND GENERAL PROVISIONS

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DETERMINATIONS OF MEDICAID ELIGIBILITY

SEC. 1634. *(a)* The Secretary may enter into an agreement with any State which wishes to do so under which he will determine eligibility for medical assistance in the case of aged, blind, or disabled individuals under such State's plan approved under title XIX. Any such agreement shall provide for payments by the State, for use by the Secretary in carrying out the agreement, of an amount equal to one-half of the cost of carrying out the agreement, but in computing such cost with respect to individuals eligible for benefits under this title, the Secretary shall include only those costs which are additional to the costs incurred in carrying out this title.

(b)(1) An eligible disabled widow or widower (described in paragraph (2)) who is entitled to a widow's or widower's insurance benefit based on a disability for any month under section 202(e) or (f)

but is not eligible for benefits under this title in that month and who applies for the protection of this subsection under paragraph (3), shall be deemed for purposes of title XIX to be an individual with respect to whom benefits under this title are paid in that month if he or she—

(A) has been continuously entitled to such widow's or widower's insurance benefits from the first month for which the increase described in paragraph (2)(C) was reflected in such benefits through the month involved, and

(B) would be eligible for benefits under this title in the month involved if the amount of the increase described in paragraph (2)(C) in his or her widow's or widower's insurance benefits, and any subsequent cost-of-living adjustment in such benefits under section 215(i), were disregarded.

(2) For purposes of paragraph (1), the term "eligible disabled widow or widower" means an individual who—

(A) was entitled to a monthly insurance benefit under title II for December 1983,

(B) was entitled to a widow's or widower's insurance benefit based on a disability under section 202(e) or (f) for January 1984 and with respect to whom a benefit under this title was paid in that month, and

(C) because of the increase in the amount of his or her widow's or widower's insurance benefits which resulted from the amendments made by section 134 of the Social Security Amendments of 1983 (Public Law 98-21) (eliminating the additional reduction factor for disabled widows and widowers under age 60), was ineligible for benefits under this title in the first month in which such increase was paid to him or her (and in which a retroactive payment of such increase for prior months was not made).

(3) This subsection shall only apply to an individual who files a written application for protection under this subsection, in such manner and form as the Secretary may prescribe, during the 12-month period beginning with the third month that begins after the date of the enactment of this subsection.

(4) For purposes of this subsection, the term "benefits under this title" includes payments of the type described in section 1616(a) or of the type described in section 212(a) of Public Law 93-66.

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INTERNAL REVENUE CODE OF 1954

Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—Computation of Taxable Income

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PART II—ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME

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Sec. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) IN GENERAL.—* * *

* * * * * * *

(d) SOCIAL SECURITY BENEFIT.—

(1) IN GENERAL.—* * *

* * * * * * *

(5) EFFECT OF EARLY DELIVERY OF BENEFIT CHECKS.—For purposes of subsection (a), in any case where section 708 of the Social Security Act causes social security benefit checks to be delivered before the end of the calendar month for which they are issued, the benefits involved shall be deemed to have been received in the succeeding calendar month.

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Subchapter N—Tax Based on Income From Sources Within or Without the United States

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PART II—NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

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Subpart A—Nonresident Alien Individuals

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SEC. 871. TAX ON NONRESIDENT ALIEN INDIVIDUALS.

(a) INCOME NOT CONNECTED WITH UNITED STATES BUSINESS—30 PERCENT TAX.—

(1) * * *

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(3) TAXATION OF SOCIAL SECURITY BENEFITS.—For purposes of this section and section 1441—

(A) one-half of any social security benefit (as defined in section 86(d)) shall be included in gross income (notwithstanding section 207 of the Social Security Act), and

(B) section 86 shall not apply.

For treatment of certain citizens of possessions of the United States, see section 932(c).

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PART III—INCOME FROM SOURCES WITHOUT THE UNITED STATES

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Subpart D—Possessions of the United States

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SEC. 932. CITIZENS OF POSSESSIONS OF THE UNITED STATES.

(a) * * *

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(c) TAXATION OF SOCIAL SECURITY BENEFITS.—If, for purposes of an income tax imposed in the possession, any social security benefit (as defined in section 86(d)) received by an individual described in subsection (a) is treated in a manner equivalent to that provided by section 86, then—

(1) such benefit shall be exempt from the tax imposed by section 871, and

(2) no amount shall be deducted and withheld from such benefit under section 1441.

[(c)] *(d)* GUAM.—

For provisions relating to the individual income tax in the case of Guam, see sections 935 and 7654; see also sections 30 and 31 of the Act of August 1, 1950 (48 U.S.C., secs. 1421h and 1421i).

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SOCIAL SECURITY DISABILITY BENEFITS REFORM ACT OF 1984

AN ACT To amend titles II and XVI of the Social Security Act to provide for reform in the disability determination process.

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ADVISORY COUNCIL STUDY

[SEC. 12.(a) The Secretary of Health and Human Services shall appoint the members of the next Advisory Council on Social Security pursuant to section 706 of the Social Security Act prior to June 1, 1985.

(b)(1) The Advisory Council shall include in its review and report, studies and recommendations with respect to the medical and vocational aspects of disability, including studies and recommendations relating to—

(A) the effectiveness of vocational rehabilitation programs for recipients of disability insurance benefits or supplemental security income benefits;

(B) the question of using specialists for completing medical and vocational evaluations at the State agency level in the disability determination process, including the question of requiring, in cases involving impairments other than mental impairments, that the medical portion of each case review (as well as any applicable assessment of residual functional capacity) be completed by an appropriate medical specialist employed by

the State agency before any determination can be made with respect to the impairment involved;

(C) alternative approaches to work evaluation in the case of applicants for benefits based on disability under title XVI and recipients of such benefits undergoing reviews of their cases, including immediate referral of any such applicant or recipient to a vocational rehabilitation agency for services at the same time he or she is referred to the appropriate State agency for a disability determination;

(D) the feasibility and appropriateness of providing work evaluation stipends for applicants for and recipients of benefits based on disability under title XVI in cases where extended work evaluation is needed prior to the final determination of their eligibility for such benefits or for further rehabilitation and related services;

(E) the standards, policies, and procedures which are applied or used by the Secretary of Health and Human Services with respect to work evaluations in order to determine whether such standards, policies, and procedures will provide appropriate screening criteria for work evaluation referrals in the case of applicants for and recipients of benefits based on disability under title XVI; and

(F) possible criteria for assessing the probability that an applicant for or recipient of benefits based on disability under title XVI will benefit from rehabilitation services, taking into consideration not only whether the individual involved will be able after rehabilitation to engage in substantial gainful activity but also whether rehabilitation's services can reasonably be expected to improve the individual's functioning so that he or she will be able to live independently or work in a sheltered environment.

(2) For purposes of this subsection, "work evaluation" includes (with respect to any individual) a determination of—

(A) such individual's skills,

(B) the work activities or types of work activity for which such individual's skills are insufficient or inadequate,

(C) the work activities or types of work activity for which such individual might potentially be trained or rehabilitated,

(D) the length of time for which such individual is capable of sustaining work (including, in the case of the mentally impaired, the ability to cope with the stress of competitive work), and

(E) any modifications which may be necessary, in work activities for which such individual might be trained or rehabilitated, in order to enable him or her to perform such activities.

(c) The Advisory Council may convene task forces of experts to consider and comment upon specialized issues.]

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